

STATE ATHLETIC COMMISSION

SECOND MODIFIED LANGUAGE

Adopt Rule 227 in Article 3 of Chapter 1 of Division 2 of Title 4 of the California Code Regulations, to read as follows:

227. Arbitration Procedures.

(a) A person who seeks arbitration of a contract dispute pursuant to Rule 221 shall send a written request for arbitration to the commission's headquarters and to the Office of the Attorney General at the address designated on the form. The request shall be on a form (Form #1 (Arbitration), Version 1.0, May 1, 2008) prescribed by the commission and shall contain all of the following information:

- (1) The person's name, address, telephone number, e-mail address if available.
- (2) The date of the request.
- (3) Type of license held and license number.
- (4) A detailed statement showing the ground for the request.
- (5) A copy of each contract over which arbitration is sought.
- (6) Whether the services of an interpreter are required and if so, for which language.
- (7) Three dates of availability for arbitration within the next 90 days after the date of the request.
- (8) Which of the following geographic locations is preferred: Sacramento, Los Angeles, San Francisco or San Diego.
- (9) The requester's signature.

The commission shall return to the requester without action any request that is incomplete because it lacks one or more of the items described above.

(b) Within five (5) working days after receipt of a complete request for arbitration, the commission shall serve the request and any accompanying documents on the other party to the contract and provide that party with an opportunity to respond. If the commission does not receive a response from the other party not later than twenty (20) calendar days from the date of service of the request, the matter shall proceed by default.

(c) The arbitrator shall be the executive officer of the commission or that person's designee.

(d) Not less than ten (10) days prior to the hearing, the parties shall exchange and also serve on the commission's designated representative a detailed list of the evidence expected to be presented during the hearing, which shall include a list of the names of witnesses and a copy of every document that the party intends to present.

(e) An arbitration proceeding shall not exceed four (4) hours unless the arbitrator determines that additional time is needed, based on the detailed statement required in subsection (a)(4), in which case the arbitrator may permit the hearing to proceed a maximum of six (6) hours total. The time shall be divided evenly among the parties. Each party is expected to make an oral or written statement of the case. The party requesting arbitration shall proceed first. Every person who will be testifying shall be sworn in.

(f) The party requesting arbitration bears the burden of proving his or her case by a preponderance of the evidence.

(g) The arbitrator shall serve the written decision on the parties not later than forty-five (45) calendar days after the matter has been submitted.

(h) Unless good cause is shown, a request for arbitration shall be deemed abandoned and the request dismissed if the party who requests arbitration fails to appear at a duly noticed hearing two times.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

Adopt Rule 389 in Article 11 of Chapter 1 of Division 2 of Title 4 of the California Code of Regulations, to read as follows:

389. Appeal Procedures.

(a) A person who wishes to appeal either a fine issued pursuant to Section 18843 of the code or a temporary suspension issued pursuant to Section 18842 of the code, shall send a written request for a hearing on a form (Form #2 (Appeal), Version 1.0, May 1, 2008) prescribed by the commission. The request shall be sent to the commission's headquarters and to the Office of the Attorney General at the address designated on the form. The form shall contain all of the following information:

- (1) The person's name, address, telephone number, e-mail address if available.
- (2) The date of the request.
- (3) Type of license held and license number.
- (4) A detailed statement showing grounds for reduction or dismissal of the fine or suspension, as applicable.
- (5) A statement whether the requester is represented by an attorney. If the requester is represented by an attorney, the name, address, telephone number and e-mail address of the attorney.
- (6) Whether the services of an interpreter are required and if so, for which language.

(7) The requester's signature.

The commission shall return to the requester without action any request that is incomplete because it lacks one or more of the items described above.

(b) Within 30 days after receipt of a complete request, the commission shall set the matter for hearing.

(c) A hearing shall not exceed one (1) hour. The time shall be divided evenly between the requester and the commission representative ("the parties"). Each party is expected to make an oral or written statement of the case. The commission representative shall proceed first. If the requester elects to address the commission, the requester shall be placed under oath. The sequence of, and time limitations on, argument before the commission are as follows:

(1) First—the staff representative and/or deputy attorney general , who shall be limited to twenty minutes.

(2) Second—the requester and/or his or her legal counsel, who shall be limited to twenty minutes.

(3) Third—the rebuttal of the staff representative and/or deputy attorney general, which shall be limited to ten minutes.

(4) Fourth—the rebuttal of the requester and/or his or her legal counsel, which shall be limited to ten minutes.

(d) The commission staff bears the burden of proving his or her case by a preponderance of the evidence.

(e) The commission shall serve the written decision on the parties not later than forty-five (45) calendar days after the matter has been submitted. The decision shall

contain factual findings, legal conclusions, and an order describing the action taken by the commission at a duly noticed meeting.

(f) Unless good cause is shown, a request for hearing shall be deemed abandoned and the request dismissed if the party who appealed and requested a hearing fails to appear at a duly noticed meeting, unless the party demonstrates good cause for that failure to appear.

NOTE: Authority cited: Section 18611 , Business and Professions Code. Reference: Sections 18842 and 18843 , Business and Professions Code.